

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

BRIAN KEITH AVERY,

Petitioner,

vs.

WARDEN PALMER, *et al.*,

Respondents.

3:06-cv-00168-LRH-RAM

ORDER

Before the Court is petitioner's Motion for Appointment of Counsel (docket #12).

There is no constitutional right to appointed counsel for a federal habeas corpus proceeding. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir. 1993). The decision to appoint counsel is generally discretionary. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir. 1984). However, counsel must be appointed if the complexities of the case are such that denial of counsel would amount to a denial of due process, and where the petitioner is a person of such limited education as to be incapable of fairly presenting his claims. See *Chaney*, 801 F.2d at 1196; *see also Hawkins v. Bennett*, 423 F.2d 948 (8th Cir. 1970).

A review of the petition on file in this action reveals that the claims are not unusually complex, and are presented to the court in a relatively organized and clear manner. It does not appear that counsel is justified in this instance. The motion shall be denied.

Also before the Court is respondents' First Motion for Enlargement of Time to file an answer to the petition for writ of habeas corpus (docket #15). Good cause appearing,

1 **IT IS THEREFORE ORDERED** that respondents' motion is **GRANTED**. Respondents
2 shall have up to and including June 5, 2008, in which to file an answer to the amended petition for a
3 writ of habeas corpus.

4 **IT IS FURTHER ORDERED** that petitioner's Motion for Appointment of Counsel is
5 **DENIED**.

6 DATED this 21st day of May, 2008.

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



LARRY R. HICKS
UNITED STATES DISTRICT JUDGE